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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,701	12/06/2000	Yutaka Maruyama	1232-4475US1	6870

7590 05/21/2003
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345 Park Avenue
New York, NY 10154

EXAMINER

TUGBANG, ANTHONY D

ART UNIT	PAPER NUMBER
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3729

DATE MAILED: 05/21/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/729,701

Applicant(s)

MARUYAMA ET AL.

Examiner

Dexter Tugbang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/162,378.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. The previous restriction requirement has been withdrawn to the extent that the applicants' preliminary amendment (original Transmittal) canceled Claims 1-13, thereby leaving Claims 14-22 for examination on the merits. Therefore, the applicants' arguments traversing the restriction requirement are now moot in light of the preliminary amendment. Any delay in prosecution is deeply regretted.

Drawings

2. Figures 6 and 7 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 14-17 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent Publication JP 4-49872, referred to hereinafter as JP'872.

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JP'872 discloses a vibration type driving apparatus comprising the following structure: a vibration member ²¹24 (in Figs. 2 and 3); a contacting member 22; and a friction member ²⁴21 having a resin composition (carbon fiber reinforced resin complex) of a heat-resisting resin and a mesophased pitch carbon fiber (see CONSTITUTION), which meets all of the limitations of the claimed invention.

Regarding Claims 15 and 16, the carbon fiber of JP'872 is considered to be a "short fiber" and "carbonic" to the extent that the composition is treated with materials of carbon and is mixed with a resin.

Regarding Claim 17, JP'872 teaches a range of mesophased pitch carbon fiber of 10-70% by weight, which is inclusive of the claimed range of 10-30% by weight.

Regarding Claim 22, the vibration type driving apparatus of JP'872 is used as a drive source in a motor (see PURPOSE).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP'872 in view of Tamai et al 5,380,805.

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JP'872 discloses the claimed apparatus as previously discussed, and further including that the friction member is molded. JP'872 does not teach the specific resin compositions recited in each of Claims 18-21.

Tamai teaches various resin compositions including: a fluororesin, a polyimide resin, molybdenum disulfide, and a polyimide powder (see col. 39, lines 3+) for the benefits of improving wear resistance of a molded material (see col. 17, lines 13+).

It would have been obvious to one of ordinary skill in the art at the time the invention was made have modified the molded friction member of JP'872 by utilizing the various composition of molded resins, as taught by Tamai, to positively improve wear resistance of the vibration type driving apparatus.

Conclusion

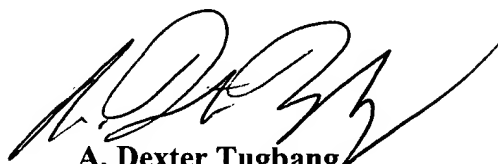
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dexter Tugbang whose telephone number is 703-308-7599. The examiner can normally be reached on Monday - Friday 9:00 am - 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 703-308-1789. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

A handwritten signature in black ink, appearing to read 'A. Dexter Tugbang', with a stylized flourish at the end.

A. Dexter Tugbang
Primary Examiner
Art Unit 3729

May 16, 2003